



DEPARTMENT OF TRANSPORTATION

Billing Code 4910-EX-P

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0314

Parts and Accessories Necessary for Safe Operation; Application for an Exemption from Van Hool N.V. and Coach USA

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA requests public comment on an application for exemption from Van Hool N.V. and Coach USA (Van Hool/Coach USA) to allow the use of double deck motorcoaches constructed with a sleeper berth that has an exit that does not meet the minimum dimensional requirements specified in the Federal Motor Carrier Safety Regulations (FMCSRs). Section 393.76(c)(1) of the FMCSRs requires sleeper berths installed (1) on or after January 1, 1963 to have an exit that is a doorway or opening that is at least 18 inches high and 36 inches wide and (2) before January 1, 1963, to have sufficient area to contain an ellipse having a major axis of 24 inches and a minor axis of 16 inches. Because of the limited available locations to place the sleeper berth within the confines of the motorcoach, Van Hool/Coach USA is requesting an exemption that would allow the use of sleeper berths that comply with the pre-January 1, 1963, exit dimension requirements instead of the post-January 1, 1963, requirements. Van Hool/Coach USA believes that the reduced exit area of the sleeper berth will maintain a level of safety that is equivalent to or greater than the level of safety achieved without the exemption.

DATES: Comments must be received on or before *[insert date 30 days after publication]*.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FMCSA–2013–yyyy by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
- Hand Delivery: Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the “Public Participation” heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the “Privacy Act” heading for further information.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12–140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union,

etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476) or you may visit <http://www.regulations.gov>.

Public participation: The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the "help" section of the <http://www.regulations.gov> Web site and also at the DOT's <http://docketsinfo.dot.gov> Web site. If you want us to notify you that we received your comments, please include a self addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC-PSV, (202) 366-0676; Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA- 21) [Pub. L. 105-178, June 9, 1998, 112 Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** [49 CFR 381.315(a)]. The Agency must provide the public with an opportunity to inspect the information relevant to the

application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation [49 CFR 381.305]. The decision of the Agency must be published in the **Federal Register** [49 CFR 381.315(b)]. If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years) and explain the terms and conditions of the exemption. The exemption may be renewed [49 CFR 381.315(c) and 49 CFR 381.300(b)].

Background

Van Hool/Coach USA Application for Exemption

On May 15, 2013, Van Hool/Coach USA applied for an exemption from 49 CFR 393.76(c)(1) to allow the use of a sleeper berth exit which meets the requirements of those sleeper berths installed before January 1, 1963. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.76(c)(1) of the FMCSRs requires that for sleeper berths installed after January 1, 1963, the exit must be a doorway or opening at least 18 inches high and 36 inches wide.

In its application, Van Hool/Coach USA states:

Van Hool and Coach USA are making this request because we jointly developed a double deck motorcoach with sleeper berths for passengers (hereafter referred to

as sleeper coach) where in order to meet the driver hours of service requirements for the routes planned for this sleeper coach, a sleeper berth must be provided for a 2nd driver. The designed sleeper berth compartment in the sleeper motor coach meets and exceeds the minimum dimensional requirements for the actual sleeper berth, however due to the limited available locations to place the sleeper berth within the confines of the motorcoach, it is requested that the entry/exit to the sleeper berth be allowed to meet the dimensional requirements for those sleeper berths manufactured/installed before January 1, 1963. The entry/exit of the sleeper berth (as currently designed) has a maximum area of 606 square inches, which is sufficient area to contain an ellipse having a major axis of 24 inches and a minor axis of 16 inches, which was the requirement for sleeper berths installed prior to January 1, 1963.

Van Hool/Coach USA states that whereas the pre-January 1, 1963, exit dimension requirements accommodated all type of commercial motor vehicles including the sleeper coach, the current language of Section 393.76(c)(1) “is designed to fit sleeper berths in trucks” and does “not take into account the limited space available on a motorcoach for utilization of a sleeper berth.”

Van Hool/Coach USA notes that without the proposed temporary exemption, it will not be able to fully utilize the operation of the sleeper coach on routes that require a second driver, because the sleeper berth exit does not meet the requirements for a sleeper berth installed on or after January 1, 1963.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on Van Hool/Coach USA’s application for an exemption from 49 CFR 393.76(c)(1). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In

addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: July 29, 2013

Larry W. Minor
Associate Administrator for Policy

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